

MAR - 6 2006

James O'Connor  
Executive Director  
St. Charles Hospital and Rehabilitation Center  
200 Belle Terre Road  
Port Jefferson, NY 11777-1928

Re: **St. Charles Hospital and Rehabilitation Center Self-Audit  
Notice of Determination, Docket No: RCRA-02-2005-0873**

Dear Mr. O'Connor:

On May 23, 2005, St. Charles Hospital and Rehabilitation Center self-disclosed possible violations to the U.S. Environmental Protection Agency (EPA) pursuant to EPA's "Incentives for Self-Policing: Discovery, Disclosure, Correction and Prevention of Violations," 65 FR 19618, April 11, 2000, effective May 11, 2000 (Audit Policy). The EPA has reviewed the disclosure to determine eligibility under the guidelines of the Audit Policy and the audit agreement and is herein issuing a determination regarding this matter.

Pursuant to the Audit Policy and based on information provided, we have determined that the facility meets the conditions of the Audit Policy and the agreement for 100% elimination of the total gravity-based penalties of **\$167,930**, which could have been otherwise assessed for the violations outlined in the disclosure reports. In addition, the potential economic benefits associated with the violations are 'de-minimis' and are also waived.

Listed below are the program-specific determinations for the disclosed violations that are regulated by EPA and eligible for penalty mitigation under the EPA audit.

#### **EPCRA**

*A gravity-based penalty of \$34,000. is being waived for the violations listed below.*

- Failure to inventory Extremely Hazardous Substances.
- Failure to submit Material Safety Data Sheets.
- Failure to submit Annual Tier 2 reports.

#### **RCRA**

*A gravity-based penalty of \$126,000. is being waived for the violations listed below.*

- Failure to characterize and segregate hazardous waste.
- Failure to track the quantity of hazardous waste generated per month and maintain records of waste analyses, TSD and transporter authorization/assurances.
- Failure to ensure that spent aerosol containers are devoid of hazardous waste prior to

## Case Conclusion Data Sheet

Draft

EA #:

Date Entered:

ORC Branch:

Case and Facility Information  
Court or Administrative Docket  
or Index Number

RCRA-02-2005-0873

Enforcement Action Name

ST. CHARLES HOSPITAL AND REHABILITATION CENTER

Site(s):

ST. CHARLES HOSPITAL  
ST CHARLES HOSPITAL & REHAB CENTER  
ST CHARLES WOMENS HEALTH SOURCE  
ST CHARLES HOSPITAL REHAB NETWORK  
ST CHARLES SATELLITE  
ST CHARLES HOSPITAL SUITE 400  
ST CHARLES HOSPITAL REMOTE FACILITY  
ST CHARLES REMOTE FACILITY  
ST CHARLES REMOTE FACILITY

Enforcement Action Type

Primary Statute/Section Violated

Other Statutes/Sections

RCRA 3008(a) AO For Comp and/or Penalty  
RCRA 3002 - Haz Waste Small Quantity Generator Regs  
EPCRA 311 - Material Safety Data Sheets (MSDS)  
EPCRA 312 - Emergency & Hazardous Chemical Inventory Forms  
EPCRA 302 - List Presence of Substances/Notify  
SDWA 1421 - UIC Regulations

CFR Citations:

### Priority Activity

☒ Core Priority

EPA Lead Attorney

EPA Program Contact

Charles Zafonte  
Diane Fiorito

DECA-CAPSB  
DECA-CAPSB-CAS

(office)  
212-637-35  
15

Violation Type

Failure to report information as required not otherwise specified.  
[Note: Incomplete or inaccurate or misleading reporting should be listed under REP. Failure to maintain required records should be listed under REC. Failure to submit a DMR as required by the Clean Water Act should be listed under NODMR. Failure to submit Toxic Release Inventory reports under EPCRA should be listed under TRI.]  
General facility requirements  
Other/Miscellaneous

Was this action taken in response to a violation found through an Inspection?

☐ Yes ☒ No

Was this a Multi-Media action? (check all that apply)

☒ Yes ☐ No

EPCRA Community Right-To-Know (Section 313), RCRA Hazardous Waste Management  
(Subtitle C), SDWA Underground Injection Control (Section 1421 et seq.)

Was the Agency activity taken in response to Environmental Justice concerns?

☐ Yes ☒ No

Was Voluntary Disclosure Policy applied to this action?

☒ Yes ☐ No

Date of Disclosure 05/23/2005

Was Alternative Dispute Resolution used in this action?

☐ Yes ☒ No

Conclusion Type

Notice of Determination

Date of Final Order Lodging

Date of Final Order

Estimated Termination Date  
Resolution Code

Source Agrees (for Disclosure Policy NODs only)

**Injunctive Relief/Complying Action**

**Direct Action to Reduce, Eliminate, or Treat Pollutants**

Direct Environmental  
Reduction

Cost \$0.00

**Preventative Actions to Manage Waste Streams or Prevent Releases/Exposures**

Preventative

RCRA Labeling/Manifesting  
RCRA Waste Identification

Cost \$3,413.00

Pollutant  
Hazardous Waste

Media  
Land

Amount

Units  
462 Gallons (gal)

**Facility Management or Information Practice**

Facility Management or  
Information Practice

Notification  
Planning  
Reporting  
Training  
Work Practices

Cost \$33,823.00

**Quantitative Environmental Impact**

**Supplemental Environmental Project (SEP) Information**

Categories of SEP(s)

SEP Description

Cost of SEP

\$0.00

Is Environmental Justice  
addressed by SEP?

☐ Yes ☐ No

**Penalty**

Final Assesed Penalty (Not including value of any SEP)

EPA \$0.00

State and Local Government \$0.00

For Multi-Media actions, enter the Federal amounts by statute:

Statute

Amount

**CERCLA Cost Recovery**

Amount of cost recover awarded

EPA \$0.00

State and Local Government \$0.00

Case Summary

ST CHARLES HOSPITAL QUALIFIED FOR 100% MITIGATION OF GRAVITY BASED PENALTIES FOR VIOLATIONS ELIGIBLE FOR AUDIT POLICY RELIEF. ECONOMIC BENEFIT WAS INSIGNIFICANT.

Self Disclosure Information

Disclosure under Audit Policy?

☒ Yes ☒ No

Disclosure under EPA's Small

☐ Yes ☒ No

Business Policy?

**DATES Milestones:** DECA tracks some milestones in the DATES database. If this action has milestones that need to be tracked in DATES, please indicate.

Does this action have DATES milestones? ☐ Yes ☐ No

Description

Frequency Page Due



Integrated Compliance Information System

**Data Entry****Facilities****Activities****Reports****Advanced**

Sub Activities

Related Activities


Facility

Contacts

Regional Fields

[Facility](#) ► [Facility Search](#) ► [Facility List](#) ► [Facility Detail](#) ► [Edit Voluntary Disclosure](#)**\*\*The information has been saved. 02/10/2006 11:06:26\*\*****Voluntary Disclosure Detail**[\[ Save \]](#) [\[ Reset \]](#) [\[ Delete \]](#) [\[ Add Compliance Determinat](#)**Facility Name:**ST CHARLES SATELLITE**Facility ID:**110009481774**Street Address:**77 RTE 112**City:**PATCHOGUE**State:**NY**Program ID:**7424604**\* Activity Name:** ST CHARLES HOSPITAL VOLUNTAR**Last Update:**02/10/2006 11:07:02 AM

ICIS 7424604 - ST CHARLES SATELLITE - 77 RTE 112, PA  
ICIS 7424606 - ST CHARLES HOSPITAL SUITE 400 - 3 TE  
**\* Facilities:** ICIS 7424607 - ST CHARLES HOSPITAL REMOTE FACILI  
ICIS 7424609 - ST CHARLES HOSPITAL REMOTE FACILI  
ICIS 7424610 - ST CHARLES HOSPITAL REMOTE FACILI

[Edit Facility](#)**\* Date Violations Disclosed:** 05/23/2005  (mm/dd/yyyy)**\* Region:**02**\* Please select either disclosure under 'Audit Policy' or 'EPA's Small****Disclosure Under Audit  
Policy:** ☒**Disclosure Under EPA's  
Small Business Policy (<  
100 Employees):** ☐**Comments:**

AA

Disclosure Referred by  
Another Office: ☐Office: ☐Disclosure Part of  
Compliance Incentive  
Program: ☐

\* 9

Outstanding Issues:

\* Federal Statutes:

EPCRA - Emergency Planning & Community Right-To-Know  
RCRA - Resource Conservation and Recovery Act  
SDWA - Safe Drinking Water Act

Edit Statute

\* Sections:

EPCRA - 311 - Material Safety Data Sheets (MSDS)  
EPCRA - 312 - Emergency and Hazardous Chemical Inventories  
RCRA - 3002 - Standards Applicable to Generators of Hazardous Waste  
SDWA - 1422/1423 - UIC Regulations Classes I - V

Edit Section

Citations:

Edit Citation

Programs:

Gen Hazardous Waste Management - Subtitle C - LQG  
Gen Hazardous Waste Management - Subtitle C - SQG  
Inventory of Chemicals  
Material Safety Data Sheets (MSDS)  
Underground Injection Control, Class I

## Penalty Information

Gravity-Based Penalty  
Calculation before Mitigation: \$ 167,930.00

Percent and Amount of  
Gravity-Based Penalty 100 % \$ 167,930.00  
Waived:

Gravity-Based Penalty  
Assessed: \$ 0.00

Economic Benefit  
Assessed: \$ 0.00

Penalty Comments:

Resolution:

Edit Resolution

Date of Resolution:  (mm/dd/yyyy)

Rationale for not applying  
the Disclosure Policy:

Edit Rationale

Save

Reset

Delete

Add Compliance Determination

[Data Entry](#) [Facilities](#) [Activities](#) [Reports](#) [Advanced](#)

**ST. CHARLES HOSPITAL, PT. JEFFERSON, NY INJUNCTIVE RELIEF REVIEW**

Page 1 of 1

<b>STATUTE/SECTION</b>	<b>Direct</b>	<b>Total Preventive</b>	<b>Total Site Mgmt.</b>
RCRA: Failed to id (3), track, segregate, manifest (4), label (4), post, train, inspect, check for land deisposal, UW (6)	NA	RCRA:Id, label, manifest: 462 gallons, \$3,413	Planning, training, inspect, track, segregate, UW work practice: \$8,980
EPCRA: Failed to submit MSDS, failed to submit annual reports, failed to inventory EHSs	NA	NA	Record keeping, reporting, inventory: \$6,843
UIC: Failed to inventory inj. well	NA	NA	Inventory: \$18,000

Preventive: RCRA id, label, manifest: 462 gal HW, \$3,413

Site Mgt: fail to track, segregate HW, post, train inspect, check for land disposal, work practice UW, notify, report inventory:  
\$33,823



## PENALTY CALCULATION

Respondent: St. Charles Hospital

Count #:

Chemical Name/RQ/TPQ:

Failure to inventory EHSs

**NATURE:** Type of Violation: EPCRA 304 EPCRA 311 **EPCRA 312**  
CERCLA 103 (Circle one).

**EXTENT:** Time passed from deadline to actual date of compliance (in hours  
or days):  
Matrix Level: 1

**GRAVITY:** Divide amount of chemical involved in the violation (lbs.):  
by \_\_\_\_\_ (RQ/TPQ) =  
Matrix Level: C

**CIRCUMSTANCES:** Specify choice of penalty amount from range listed for the cell of the matrix  
based on circumstance factors:

- |     |   |                  |
|-----|---|------------------|
| 1.  | Base Penalty  | \$ <u>12,000</u> |
| 2.  | If per day, continuing reportable release, multiply line 1 by<br>_____ days, beginning with the second day of violation.                                      | \$               |
| 3.  | Other per day violations, multiply line 1 by .01 = _____.<br>Multiply the per day penalty _____ by _____ days, beginning with<br>the second day of violation. | \$               |
| 4.  | Add lines 1-3   | \$               |
| 5.  | Prior History: (Treble, 25%, 50%: + _____) \$   |                  |
| 6.  | Culpability (% increase or decrease +/- _____%)   | \$               |
| 7.  | Other factors as justice may require (- _____%)   | (\$ _____)       |
| 8.  | Size of business reduction (- _____%)   | (\$ _____)       |
| 9.  | Attitude (- _____%)   | (\$ _____)       |
| 10. | Supplemental Environmental Project (- _____)  | (\$ _____)       |
| 11. | Voluntary Disclosure (- _____)  | (\$ _____)       |
| 12. | Subtract lines (5-11) from line 4   | \$ <u>12,000</u> |

Repeat procedure for each violation.

Prepared by: Zafonte

Signature: \_\_\_\_\_

Date: 12/22/05

## PENALTY CALCULATION

Respondent : St. Charles Hospital

Count #:

Chemical Name/RQ/TPQ:

Failure to submit MSDSs to authorities

**NATURE:** Type of Violation: EPCRA 304 **EPCRA 311** EPCRA 312  
CERCLA 103 (Circle one).

**EXTENT:** Time passed from deadline to actual date of compliance (in hours  
or days): 30 >days  
Matrix Level: 1

**GRAVITY:** Divide amount of chemical involved in the violation (lbs.):  
by \_\_\_\_\_ (RQ/TPQ) = >1  
Matrix Level: C

**CIRCUMSTANCES:** Specify choice of penalty amount from range listed for the cell of the matrix  
based on circumstance factors:

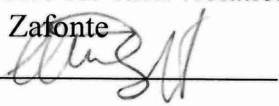
Middle range

- |     |   |            |                |
|-----|---|------------|----------------|
| 1.  | Base Penalty  |            | <u>\$4000</u>  |
| 2.  | If per day, continuing reportable release, multiply line 1 by<br>_____ days, beginning with the second day of violation.                                      |            | \$             |
| 3.  | Other per day violations, multiply line 1 by .01 = _____.<br>Multiply the per day penalty _____ by _____ days, beginning with<br>the second day of violation. |            | \$             |
| 4.  | Add lines 1-3   |            | \$             |
| 5.  | Prior History: (Treble, 25%, 50%: + _____) \$   |            |                |
| 6.  | Culpability (% increase or decrease +/- _____%)   | \$         |                |
| 7.  | Other factors as justice may require (- _____%)   | (\$ _____) |                |
| 8.  | Size of business reduction (- _____%)   | (\$ _____) |                |
| 9.  | Attitude (- _____%)   | (\$ _____) |                |
| 10. | Supplemental Environmental Project (- _____)  | (\$ _____) |                |
| 11. | Voluntary Disclosure (- _____)  | (\$ _____) |                |
| 12. | Subtract lines (5-11) from line 4   |            | <u>\$ 4000</u> |

Add \$3000 (2 additional yrs.)

**Total \$7,000**

Repeat procedure for each violation.

Prepared by: ZafonteSignature: 

Date: 12/22/05

### Failure to submit Annual Tier 2 reports

### Middle range

- Date: 12/22/05

<b>St Charles Hospital and Rehabilitation Center</b>							
RCRA							
GRAVITY COMPONENT	Failure to characterize and segregate hazardous waste.	Failure to track the quantity of hazardous waste generated per month and maintain records of waste analyses , TSD and transporter authorization/ assurances.	Failure to ensure that spent aerosol containers are devoid of hazardous waste prior to disposal.	Failure to send manifest copies to the involved states, and to meet exception requirements.	Failure to label hazardous waste containers with contents and with initial date of accumulation.	Failure to post emergency information in the 180-day storage area.	Failure to train employees handling hazardous waste.
<b><u>Potential for Harm/ Extent of Deviation</u></b>							
Major/Major	\$32,500						
Major/Moderate							
Major/Minor							
Moderate/Major							
Moderate/Moderate		\$8,500	\$8,500	\$8,500	\$8,500	\$8,500	\$8,500
Moderate/Minor							
Minor/Major							
Minor/Moderate							
Minor/Minor							
Total	\$32,500	\$8,500	\$8,500	\$8,500	\$8,500	\$8,500	\$8,500

Failure to inspect hazardous waste containers weekly for leaks.	Failure to determine whether hazardous waste is restricted from land disposal.	Failure to determine the universal waste generator status.	Failure to cover, label and record the initial date of accumulation of containers of waste fluorescent bulbs and batteries.	Failure to train personnel in universal waste requirements.
\$8,500	\$8,500	\$8,500	\$8,500	\$8,500
\$8,500	\$8,500	\$8,500	\$8,500	\$8,500

**TOTAL**

**\$126,000**

# St. Charles H&RC

<b>UIC</b>	Failure to inventory an injection well receiving non-contact cooling water and boiler blowdown.
A factor	100
B factor	1
C factor	60
D factor	1
<b>Penalty=(AxB) x(C+D)</b>	<b>\$6,100</b>
30% Inflation adjustment-- Penalty	<b>\$7,930</b>
A=Seriousness of Violation	
B= Economic Impact of the Violator	
C=Duration of Violation	
D= No. of Wells in Violation	

## ROUTING AND TRANSMITTAL SLIP

February 14, 2006

<b>TO</b> (Name, office symbol, room number, building, Agency/Post)	Initials	Date
1. John Gorman, DECA/CAPSB/CAS	<i>JG</i>	2/14/06
2. Patrick Harvey, DECA/CAPSB	<i>PH</i>	2/24/06
3. Pat Durack, Deputy Director, DECA		
4. Dore LaPosta, Director, DECA		

<b>Action</b>	<b>File</b>	<b>Note and Return</b>
<b>Approval</b>	<b>For Clearance</b>	<b>Per Conversation</b>
<b>As Requested</b>	<b>For Correction</b>	<b>Prepare Reply</b>
<b>Circulate</b>	<b>For Your Information</b>	<b>See Me</b>
<b>Comment</b>	<b>Investigate</b>	<b>Concurrence / Signature</b>
<b>Coordinate</b>	<b>Justify</b>	

## REMARKS

Enclosed for concurrence and signature is the Notice of Determination (NOD) for issuance to St. Charles Hospital and Rehabilitation Center in response to its voluntary disclosure report under EPA's Audit Policy for the medical center and associated facilities.

St. Charles Hospital and Rehabilitation Center disclosed 16 violations of EPA-enforceable regulations, which are eligible for penalty mitigation under the EPA Audit Policy and have been corrected.

The waived gravity-based penalties are calculated to be \$167,930. and the economic-based penalties are de minimis.

DO NOT use this form as a RECORD of approvals, concurrences, disposals, clearances, and similar actions

**FROM:** (Name, org. symbol, Agency/Post)  
Charles Zafonte, Multimedia Enforcement Coordinator

Room No. Bldg. → 21<sup>st</sup> floor

Phone No. → X-3515